

ORDER NO. 4670

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Competitive Product Prices
Parcel Select Contract 20 (MC2017-78)
Negotiated Service Agreements

Docket No. CP2017-105

ORDER REQUIRING ADDITIONAL INFORMATION

(Issued June 25, 2018)

I. BACKGROUND

On January 26, 2017, the Commission added Parcel Select Contract 20 to the competitive product list.¹ The Commission subsequently approved amendments to the contract.² On May 11, 2018, the Postal Service filed notice of an additional amendment to the contract.³ The Amendment includes a pickup service where, for a fee, the Postal

¹ Docket Nos. MC2017-78 and CP2017-105, Order Adding Parcel Select Contract 20 to the Competitive Product List, January 26, 2017 (Order No. 3759).

² See Order Approving Amendment to a Parcel Select Negotiated Service Agreement, March 21, 2017 (Order No. 3820); Order Approving Amendment to Parcel Select Negotiated Service Agreement, September 21, 2017 (Order No. 4108).

³ USPS Notice of Change in Prices Pursuant to Amendment to Parcel Select Contract 20, Filed Under Seal, May 11, 2018 (Notice). The amendment is an attachment to the Notice (Amendment).

Service “will pick up eligible packages from Customer store locations....” Notice, Attachment A at 1. The Postal Service filed new financial workpapers to model the costs of providing this service. See Notice at 1.

The Postal Service provides pickup service in other contexts, including in other negotiated service agreements (NSAs).⁴ The cost model presented in support of the Amendment, however, has unique features relating to the pickup service. In keeping with standard Commission practice when presented with novel cost models, Chairman’s Information Request No. 1 was issued to ask the Postal Service to provide a justification for its reliance on the model, and to identify the assumptions in the model that would be replaced with actual data when the contract’s financial results are reported in the Postal Service’s Annual Compliance Report (ACR).⁵

In its response, the Postal Service states that it does not plan to track the costs associated with providing the pickup service, and that it would therefore continue to rely on the assumptions in the model in lieu of actual data when reporting on the contract’s performance in the ACR.⁶ The Postal Service explains that not measuring the costs of providing the pickup service is justifiable because the estimated values are small, and that the estimate is conservative. Response to CHIR No. 1, question 1.

⁴ See, e.g., Docket Nos. MC2018-149 and CP2018-215, USPS Request to Add Priority Mail Contract 433 to Competitive Product List and Notice of Filing Materials Under Seal, May 9, 2018, Attachment B at 1 (offering pickup service as part of a Priority Mail NSA). The Commission approved this Priority Mail NSA, requiring the Postal Service to file quarterly data reports. Docket Nos. MC2018-149 and CP2018-215, Order Adding Priority Mail Contract 433 to the Competitive Product List, May 30, 2018, at 7 (Order No. 4626).

⁵ Chairman’s Information Request No. 1 and Notice of Filing Under Seal, May 24, 2018, question 1 (CHIR No.1). See also Docket Nos. MC2018-149 and CP2018-215, Chairman’s Information Request No.1 and Notice of Filing Under Seal, May 21, 2018, question 1 (asking a nearly-identical question in relation to the Priority Mail NSA offering pickup service described in footnote 4, *supra*).

⁶ USPS Response to Chairman’s Information Request No. 1, with Materials Filed Under Seal, May 30, 2018, question 1 (Response to CHIR No.1). This reply contrasts with the response to the nearly-identical question mentioned in footnote 5, *supra*, where the Postal Service explained that existing methodology would be employed to track actual hours charged and miles driven for the Priority Mail contract offering pickup service described in footnote 4, *supra*. Docket Nos. MC2018-149 and CP2018-215, USPS Response to Chairman’s Information Request No. 1, with Portions Filed Under Seal, May 24, 2018, question 1.

Chairman's Information Request No. 2 followed up on this reply and asked the Postal Service to identify and explain obstacles to collecting the operational data necessary to replace the assumptions in the cost model with actual data.⁷ The Postal Service responded that it is uncertain as to whether sufficient operational information is available and reliable enough to validate the cost model.⁸

II. DISCUSSION

The Postal Service has substantial flexibility to craft NSAs with mailers. The Commission supports the Postal Service's efforts to craft agreements that both meet the changing needs of mailers and comport with all applicable legal requirements. One such legal requirement appears in 39 C.F.R. § 3015.5, which requires, among other things, the Postal Service to submit sufficient revenue and cost data for the next twelve months to demonstrate that the contract will be in compliance with 39 U.S.C. § 3633(a)(2) (mandating that each competitive product covers its attributable costs).

The Postal Service, therefore, submits 12-month projections whenever it seeks the Commission's approval of an NSA.⁹ These projections are inherently estimates of future revenue and costs. When entering into novel arrangements for which no data exist, it is inevitable that these projections will include assumptions that are not yet verifiable with actual data. So long as these assumptions appear reasonable and the accuracy of the cost model can be subsequently verified in the ACR, the Commission

⁷ Chairman's Information Request No. 2 and Notice of Filing Under Seal, May 31, 2018, question 1 (CHIR No. 2).

⁸ USPS Response to Chairman's Information Request No. 2, with Materials Filed Under Seal, June 5, 2018, question 1 (Response to CHIR No. 2).

⁹ See, e.g., Docket Nos. MC2018-171 and CP2018-243, USPS Request to Add Priority Mail Contract 445 to Competitive Product List and Notice of Filing Materials Under Seal, June 12, 2018, at 1-2.

has routinely approved such contracts.¹⁰ Ongoing compliance for every contract is reviewed annually based on actual data presented in the ACR.¹¹

By contrast, in this Docket the Postal Service seeks Commission approval of an amendment based on projections that will never be verified with actual data. See Response to CHIR No. 1, question 1. Even if the Commission were to accept the Postal Service's assertions that the assumptions in the cost model are conservative (and thus that the contract is *likely* to cover to its costs), it would be unable to verify in a future ACD that the amended contract *did* cover its costs in compliance with 39 U.S.C. § 3633(a)(2).

The Postal Service makes a similar argument that the costs of providing the pickup service are relatively small.¹² While it is true in the abstract that relatively small additional costs are unlikely to materially affect the cost coverage of a contract that covers its cost by a significant margin, forward-looking cost estimates are not always accurate, and it is possible for a contract projected to have high cost coverage to instead result in marginal cost coverage. In such a case, the accuracy of cost assumptions that remain in the model could make a difference as to whether the contract comports with 39 U.S.C. § 3633(a), even if the assumed costs were projected

¹⁰ See, e.g., Order No. 4626.

¹¹ In its FY 2017 Annual Compliance Determination (ACD), the Commission noted the Postal Service's reliance, for a small number of contracts, on estimated rather than actual mailer profile data. Although the Commission determined that no better data were available at the time, the Commission noted that it "will continue to evaluate on an ongoing basis whether the data provided by the Postal Service are sufficient to assess compliance." Docket No. ACR2017, Annual Compliance Determination, March 29, 2018, at 85.

¹² *Id.* The Commission interprets this argument as a claim that the costs incurred by offering the pickup service are small relative to the overall costs of the contract.

to be relatively small.^{13,14} Additionally, requiring assumptions in the cost model to be verified with actual data permits the Commission to take a uniform analytical approach to evaluate contracts with high projected cost coverage as well as contracts with lower projected cost coverage.

III. CONCLUSION

For the reasons discussed above, the information provided by the Postal Service is insufficient for the Commission to determine whether the Amendment to Parcel Select Contract 20 is in compliance with 39 U.S.C. § 3633(a). In accordance with 39 C.F.R. § 3015.6, the Postal Service is therefore ordered to submit to the Commission by July 16, 2018, a data collection plan to be implemented over the term of the contract to ensure that sufficient actual data is collected to permit the Commission to verify compliance with 39 U.S.C. § 3633(a).

Specifically, this plan should collect actual data necessary to replace each assumption in the cost model for the pickup service. For each such assumption the plan should: describe the data to be collected, identify how soon after the Amendment's effective date data collection can commence, and describe the anticipated reliability of the collected data. If collecting data for any individual assumption is infeasible, the Postal Service should specifically identify in detail any obstacles or costs that might support leaving that particular assumption in the model.

¹³ The risk that unverified costs might endanger compliance is particularly acute when the accuracy of an entire component of the cost model (such as pickup service) is never verified. The likelihood that related assumptions (as may be found within a single cost component) are all wrong in the same direction is higher than if the assumptions were unrelated.

¹⁴ It is possible for additional costs to be reasonably shown to instead be small relative to the demonstrated cost of data collection. The Commission asked the Postal Service to identify any obstacles, such as cost, that would impede collection of the necessary data. CHIR No. 2, question 1. As discussed, *supra*, in the main text, the Postal Service did not identify any specific obstacles to data collection. Response to CHIR No. 2, question 1.

IV. ORDERING PARAGRAPHS

It is ordered:

1. By July 16, 2018, the Postal Service shall submit to the Commission a data collection plan as described in the body of this Order.
2. The USPS Notice of Change in Prices Pursuant to Amendment to Parcel Select Contract 20, Filed Under Seal, filed May 11, 2018, remains pending.

By the Commission.

Stacy L. Ruble
Secretary